

HOUSE BILL No. 1347

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-15-6-1; IC 32-30; IC 33-31-1-5; IC 33-32; IC 33-33; IC 33-37; IC 33-38-10-6; 19; IC 34-35-5.

Synopsis: Circuit court clerk administrative matters. Requires that the clerk of the circuit court (clerk) or the county recorder (recorder) must be the secretary of the county commission of public records, as determined by: (1) mutual agreement of the clerk and the recorder; or (2) if a mutual agreement cannot be reached, an affirmative vote of the majority of the members of the commission. Allows the clerk to keep the lis pendens record, the execution docket, and the register of witness fees and court fees in electronic form if all information is available via electronic access. Eliminates: (1) the requirement that the clerk attend court proceedings; and (2) the per diem paid the clerk or a deputy for attending court. Allows the clerk to retain an administrative fee of up to \$3 from any excess amount of fine, penalty, fee, or bail collected and refunded by the clerk. Requires the cost of: (1) an initial mailing of a document by certified or registered mail to be paid out of court costs and fees; and (2) any additional certified or registered mailings to be paid by the person requesting the additional mailings.

Effective: July 1, 2014.

Mayfield, Richardson

January 15, 2014, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1347

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-15-6-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A commission is hereby
3 created in each county of the state which shall be known as the county
4 commission of public records of _____ county.
5 (b) The county commission shall consist, ex officio, of the judge of
6 the circuit court, the president of the board of county commissioners,
7 the county auditor, the clerk of the circuit court, the county recorder,
8 the superintendent of schools of the school district in which the county
9 seat is located and the city controller of the county seat city, and if
10 there is no city controller, then the clerk-treasurer of the county seat
11 city or town shall be a member of such commission.
12 (c) The commission shall elect one (1) of its members to be
13 chairman. ~~and the clerk of the circuit court shall be secretary. The~~
14 ~~clerk of the circuit court or the county recorder must be secretary~~
15 ~~of the commission. The person who serves as secretary shall be~~
16 ~~determined as follows:~~



(1) By mutual agreement of the clerk of the circuit court and the county recorder.

(2) If a mutual agreement cannot be reached under subdivision (1), by an affirmative vote of a majority of members of the county commission.

The members of the county commission shall serve without compensation and shall receive no disbursement for any expense.

(d) The county commission shall meet at least one (1) time in each calendar year.

SECTION 2. IC 32-30-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) The clerk of a court shall enter in the civil order book all orders and decrees in any suit to quiet the title to real estate. After a court enters final judgment in a proceeding, the clerk shall certify a copy of the final judgment. ~~and deliver the certified copy to the county recorder.~~ The clerk shall include the costs of a transcript of the proceedings ~~and the recording fees~~ in the costs of the proceeding.

(b) The county recorder shall record the certified copy of the final judgment and shall collect any applicable recording fee.

~~(b)~~ (c) A county recorder shall procure a substantially bound book that is the size and quality of the county deed records. The book shall be known as the "Quiet Title Record". The Quiet Title Record must contain a transcript of each proceeding and an index to each transcript. The index must contain the following:

- (1) An alphabetical list of plaintiffs.
- (2) The date of filing of the transcript.
- (3) The date of the final judgment.
- (4) The date on which the final judgment was recorded.
- (5) A brief description of the real estate that was the subject of the proceeding.
- (6) The book and page on which the final judgment is recorded.

SECTION 3. IC 32-30-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. Each clerk of the circuit court shall keep a ~~book in the office of the clerk called the~~ lis pendens record. The lis pendens record is a public record. **The clerk of the circuit court may keep the lis pendens record:**

- (1) in hard copy form; or**
- (2) in electronic form, if all information in the lis pendens record is available via electronic access.**

SECTION 4. IC 33-31-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) ~~The clerk and~~ sheriff shall attend the court. ~~and~~ **The clerk and the sheriff shall**



1 discharge all the duties pertaining to their respective offices required
2 by law in the circuit court.

3 (b) All laws:

4 (1) prescribing the duties and liability of the officers;

5 (2) prescribing the mode of proceeding against either or both of
6 the officers for any neglect of official duty; and

7 (3) allowing fees and providing for the collection of the fees;
8 in the circuit court, extend to the probate court, as applicable.

9 SECTION 5. IC 33-32-2-10 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2014]: **Sec. 10. (a) This section applies whenever the clerk is
12 required to send by registered or certified mail a document filed
13 with a court.**

14 **(b) The initial mailing of the document by registered or certified
15 mail sent:**

16 **(1) to each party who is required to receive the mailing; and**

17 **(2) to only one (1) of the party's addresses;**

18 **shall be paid out of court costs and fees collected under IC 33-37.**

19 **(c) If a person requests the clerk to send a mailing by registered
20 or certified mail after the initial mailing described in subsection
21 (b), the person shall pay the cost of the mailing.**

22 **(d) In a county where court postage costs are paid by the clerk's
23 office, the amount collected by the clerk for additional mailings by
24 registered or certified mail shall be deposited into the clerk's
25 record perpetuation fund established under IC 33-37-5-2. In a
26 county where court postage costs are paid out of the county general
27 fund, the amount collected by the clerk for additional mailings by
28 registered or certified mail shall be returned to the county general
29 fund.**

30 SECTION 6. IC 33-32-3-1 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 1. (a) The clerk shall
32 endorse the time of filing on each writing required to be filed in the
33 office of the clerk.**

34 **(b) The clerk shall carefully preserve in the office of the clerk all
35 records and writings pertaining to the clerk's official duties.**

36 **(c) The clerk shall procure, at the expense of the county, all
37 necessary judges' appearance, bar, judgment, and execution dockets,
38 order books, and final record books.**

39 **(d) The clerk shall**

40 ~~(1) attend, in person or by deputy, the circuit court of the county;~~
41 ~~and~~

42 ~~(2) enter in proper record books all orders, judgments, and~~



decrees of the court.

(e) Not more than fifteen (15) days after the cases are finally determined, the clerk shall enter in final record books a complete record of:

- (1) all cases involving the title to land;
- (2) all criminal cases in which the punishment is death or imprisonment, except where a nolle prosequi is entered or an acquittal is had; and
- (3) all other cases, at the request of either party and upon payment of the costs.

SECTION 7. IC 33-32-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The clerk shall keep an execution docket.

(b) The clerk shall enter all executions on the execution docket as they are issued by the clerk, specifying in proper columns the following information:

- (1) The names of the parties.
- (2) The amount of the judgment and the interest due upon the issuing of the execution.
- (3) The costs.

The clerk shall also prepare an additional column in which the clerk shall enter the return of the sheriff.

(c) The execution docket entries may be inspected and copied under IC 5-14-3-3.

(d) The clerk may keep an execution docket:

- (1) in hard copy form; or**
- (2) in electronic form, if all information in the execution docket is available via electronic access.**

SECTION 8. IC 33-32-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) The clerk shall keep a register of witness fees and other court fees.

(b) When the clerk receives money in payment of court fees or fees for a witness or any other person, the clerk shall make an entry into the register recording the receipt of the payment.

(c) The register must contain the following information:

- (1) The names, in alphabetical order, of persons for whom payment has been received.
- (2) The cause for which the fee is paid.
- (3) In which fee book and on which page the fee is taxed.
- (4) The amount paid.
- (5) When the fee was paid in and when it was paid out.

(d) The register must be **open available** for inspection at all times.



1 in a conspicuous place in the clerk's office. The clerk may keep the
2 register:

3 (1) in hard copy form, in a conspicuous place in the clerk's
4 office; or

5 (2) in electronic form, if all information in the register is
6 available via electronic access.

7 SECTION 9. IC 33-33-2-17 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) The ~~clerk and~~
9 sheriff shall attend the Allen superior court. ~~and The clerk and the~~
10 **sheriff shall** discharge all the duties pertaining to their respective
11 offices as they are required to do by law in the circuit court.

12 (b) All laws prescribing the duties and liabilities of clerk and sheriff
13 and the mode of proceeding against them, or either of them, for neglect
14 of official duty, allowing fees, and providing for the collection fees in
15 the circuit court, apply to the Allen superior court.

16 (c) In a case in the Allen superior court based upon a violation of a
17 city ordinance where fines or forfeitures are adjudged against a party:

18 (1) the fines or forfeitures shall be paid to and collected by the
19 clerk and regularly remitted to the city clerk of the city that issued
20 the ordinance; and

21 (2) the city clerk shall disburse the fines or forfeitures as required
22 by law.

23 Payment of fines for admitted parking violations shall be made to the
24 city clerk of the city that issued the ordinances concerning parking
25 violations.

26 SECTION 10. IC 33-33-3-3 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The clerk of the
28 Bartholomew circuit court is the clerk of the Bartholomew superior
29 courts, and the sheriff of Bartholomew County is the sheriff of the
30 Bartholomew superior courts. The ~~clerk and~~ sheriff shall attend the
31 courts. ~~and The clerk and the sheriff shall~~ discharge all the duties
32 pertaining to their respective offices as they are required to do by law
33 with reference to the Bartholomew circuit court.

34 SECTION 11. IC 33-33-9-4 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The clerk of the Cass
36 circuit court shall serve as the clerk of each Cass superior court, and
37 the sheriff of Cass County shall serve as the sheriff of each Cass
38 superior court. ~~They~~ **The sheriff** shall attend the courts. ~~and The clerk~~
39 **and the sheriff shall** perform the same duties relating to their offices
40 as they are required to do with respect to the Cass circuit court.

41 SECTION 12. IC 33-33-19-4 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The clerk of the



Dubois circuit court shall serve as the clerk of the Dubois superior court, and the sheriff of Dubois County shall serve as the sheriff of the Dubois superior court. ~~They~~ **The sheriff** shall attend the court. ~~and The clerk and the sheriff shall~~ perform the same duties relating to their offices as they are required to do with respect to the Dubois circuit court.

SECTION 13. IC 33-33-79.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The clerk of the Tippecanoe circuit court shall be the clerk of superior court No. 2 of Tippecanoe County and the sheriff of Tippecanoe County shall be the sheriff of superior court No. 2 of Tippecanoe County. The ~~clerk and~~ sheriff shall attend court. ~~and The clerk and the sheriff shall~~ discharge all the duties pertaining to their respective ~~office offices~~ as they are required to do by law with reference to the Tippecanoe circuit court.

(b) The judge of superior court No. 2 of Tippecanoe County shall appoint a bailiff and an official reporter for the court to serve during the court. The judge shall fix their compensation within the limits and in the manner provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Tippecanoe County, in the manner provided by law.

SECTION 14. IC 33-37-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. ~~As used in this article,~~ "Clerk" refers to ~~any of~~ the following:

(1) For purposes of IC 33-37-1 through IC 33-37-11, a person who is any of the following:

~~(1)~~ **(A)** A clerk of a circuit court under IC 33-32-2-1.

~~(2)~~ **(B)** The clerk of a city or town court under IC 33-35.

~~(3)~~ **(C)** The judge of a city or town court that does not have a clerk.

(2) For purposes of IC 33-37-12, a person who is a clerk of a circuit court under IC 33-32-2-1.

SECTION 15. IC 33-37-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 12. Circuit Court Clerk Administrative Fee

Sec. 1. (a) This chapter applies to any amount that the clerk of a circuit court is required to collect from a person, including:

(1) bail;

(2) a fine;

(3) a civil penalty;

(4) a court fee, court cost, or user fee imposed by the court; or



(5) a fee for the preparation, duplication, or transmission of a document.

(b) This chapter does not apply to child support funds received by the clerk of a circuit court under IC 33-32-4.

Sec. 2. If the amount collected by the clerk of the circuit court is more than the amount required, the clerk shall:

(1) retain the administrative fee described in section 2 of this chapter; and

(2) refund the excess amount.

Sec. 3. (a) The clerk of a circuit court may retain as an administrative fee an amount of up to three dollars (\$3) from the excess amount collected by the clerk under section 3 of this chapter.

(b) The clerk shall deposit the amount retained as an administrative fee under subsection (a) in the clerk's record perpetuation fund established under IC 33-37-5-2.

SECTION 16. IC 33-38-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The clerk of the circuit court of the county in which the case is filed serves as the clerk of the court for a case heard by a private judge, and the sheriff of that county serves as the sheriff of the court for the case. ~~The clerk and the sheriff shall attend the proceedings. and The clerk and the sheriff shall perform the same duties relating to their offices as are required for the circuit court of the county in which the case is filed.~~

(b) The clerk of the circuit court of the county in which the case is filed shall provide to a private judge for each case all books, dockets, papers, and printed blanks necessary to discharge the duties of the court.

SECTION 17. IC 34-35-5-2, AS AMENDED BY P.L.118-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Expenses to be paid under section 1 of this chapter include the following:

(1) The expense of keeping the prisoner, if any.

(2) The expense of transporting the prisoner to or from any penal institution.

(3) Any extraordinary expense for safekeeping the prisoner.

(4) The fee set by the venue court under IC 33-40-2-5 for pauper counsel, if counsel was appointed by that court.

(5) The expense of any mileage, meals, lodging, and per diems paid for or to jurors.

(6) The per diems paid jury administrators for drawing any special venire.



(7) The sum of five dollars (\$5) for each day or part of a day a bailiff is engaged in assisting the court in the trial of the cause.

(8) The sum of eight dollars (\$8) for each day or part of a day an official court reporter takes evidence or testimony before the judge or jury concerning the cause.

(9) The sum of ten dollars (\$10) per day for each day of trial for use of facilities and utilities.

(10) The sum of five dollars (\$5) for notifying the jury not to attend court after having been summoned in any cause.

(11) The amount of telephone or telegraph communications made by the court or authorized by it.

~~(12) The per diem allowed by law to the clerk of the court for attending court.~~

SECTION 18. IC 34-35-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. ~~Except for the clerk,~~ Not more than one (1) per diem or charge for the official reporting or for use of facilities and utilities shall be made against any county of origin of the causes for the same day. However, if two (2) or more proceedings are conducted in two (2) or more separate causes from any county or counties of origin on the same day, the court shall allocate the charges for any such cause as it may determine. The per diem for ~~the clerk,~~ the official court reporter or bailiff shall be paid by the county of trial in the first instance and reimbursement for that payment may be obtained from the county of origin.

SECTION 19. IC 34-35-5-8 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 8: ~~The clerk is entitled to collect two dollars (\$2) from the county treasury for each calendar day on which the clerk or the clerk's deputy attends a court when it is occupied with business concerning change of venue. The payment authorized under this section is not affected by the number of items filed or the business transacted by the court on that day.~~

